

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

William N. Brownsberger

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to stress user-controllable factors in automobile insurance premiums.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William N. Brownsberger	24th Middlesex
John Hayes	5 Colonial Terrace, Belmont, MA 02478

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO STRESS USER-CONTROLLABLE FACTORS IN AUTOMOBILE INSURANCE PREMIUMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 175 of the General Laws of Massachusetts, as
2 appearing in the 2006 Official Edition, is hereby amended by striking out section
3 22E, and inserting in place thereof the following section:
4 Section 22E. No insurance company, and no officer or agent thereof on its behalf,
5 shall refuse to issue, renew or execute as surety a motor vehicle liability policy or
6 bond, or any other insurance based on the ownership or operation of a motor
7 vehicle because of any factor other than driving record, which shall reflect only
8 the number and severity of an insured's at-fault accidents and the number and
9 type of an insured's moving traffic violations. For purposes of this section,
10 "insurance company" shall mean all members of the same insurance company
11 group. A particular company may make a general reduction in volume of
12 automobile insurance in the commonwealth if such a reduction is determined by
13 the commissioner not to be an attempt to circumvent the purposes of this section
14 and that the company's refusal to write motor vehicle liability policies or bonds is
15 not contrary to the public interest by disrupting the market for such insurance in
16 the commonwealth. Any company which does not intend to issue a renewal
17 policy shall give written notice of its intent not to issue a policy for the ensuing

18 policy period in accordance with section 113F and such notice shall provide the
19 specific reasons for such nonrenewal.

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22 SECTION 2. Section 193R of chapter 175 of the General Laws, as so appearing, is
23 hereby amended by striking out the second-to-last paragraph and inserting in
24 place thereof the following paragraph:

25 Rates for such policies shall be determined in accordance with the
26 provisions of this chapter, chapter one hundred seventy-five E, chapter one
27 hundred and seventy-four A, or chapter one hundred and seventy-five A
28 applicable to the type of insurance provided, except that in addition to the
29 applicable provisions of said chapter every insurer providing insurance in
30 accordance with this section shall keep and maintain separate data on the losses
31 and expenses for each employer, trade union, association or organization so
32 insured and shall not be allowed to offer any such insured a modification of the
33 rates so determined for such insured until and unless data of such losses and
34 expenses for at least three policy years shows, to the satisfaction of the
35 commissioner, that such modification is in fact justified based solely on direct
36 reductions in losses resulting entirely from cost-saving measures undertaken by
37 the group or on direct reductions in expenses resulting from the group marketing
38 technique or both. For the purposes of this section, deviations approved during
39 the first three years of a group marketing plan by the commissioner based solely
40 on direct reductions in expenses resulting from the group marketing technique
41 shall be permitted. The justification required under this paragraph shall be
42 provided simultaneously to the commissioner and to the attorney general, either
43 of whom may require a hearing on such modification of rates, which shall be held
44 pursuant to the provisions of this chapter, chapter one hundred seventy-five E,
45 chapter one hundred seventy-four A or chapter one hundred and seventy-five A
46 applicable to the type of insurance provided. Every mutual company providing
47 insurance in accordance with this section shall constitute each group marketing
48 plan which has been in effect three policy years as a separate class of business for

49 the purpose of paying dividends and any dividends on such plan shall be declared
50 on the profits of the company from said class of business.

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53 SECTION 3. Section 4 of chapter 175E of the General Laws, as so appearing, is
54 hereby amended by striking out, in lines 32 to 39, inclusive, the words "Risks may
55 be grouped by classification for the establishment of rates and minimum
56 premiums. Classification rates may be modified to produce rates for individual
57 risks in accordance with rating plans which establish standards for measuring
58 variations in hazards or expense provisions, or both. Such standards may measure
59 any difference among risks that have a probable effect upon losses or expenses.
60 Such classifications and modifications shall apply to all risks under the same or
61 substantially the same circumstances or conditions." and inserting in place
62 thereof the following words:

63 Motor vehicle insurance premium charges shall be determined solely by
64 application of the following principally user-controllable factors:

65 (i) the insured's territory;

66 (ii) the number and severity of an insured's at-fault accidents;

67 (iii) the number and type of an insured's moving traffic violations;

68 (iv) the status of the insured's driver's license;

69 (v) the number of miles an insured drives annually;

70 (vi) the number of years that the insured has been driving, as long as
71 this factor does not receive more weight in the determination of classification
72 rates than it did in the rates fixed and established for policy year 2007;

73 (vii) the make, model, and age of the insured vehicle, except that this
74 factor shall not explicitly or implicitly reflect the loss or expense experience
75 associated with the individuals who tend to operate that type of vehicle;

76 (viii) the number of vehicles insured, except that the impact of this
77 factor shall not be larger than it was in the rates fixed and established for policy
78 year 2007;

79 (ix) a qualifying driver education program;

80 (x) qualifying mass transit system usage;

81 (xi) a discount approved pursuant to section 193R of chapter 175;

82 and

83 (xii) any other factors contained in this subsection (d).

84 All insurers that are affiliated or that are members of the same insurance
85 holding company system as defined by section 206 of chapter 175 or that are
86 otherwise under common ownership or management may use only one set of
87 rates, including any discounts, credits, surcharges, dividends, rating plans, or
88 other mechanisms that affect the amount an insured is charged.

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91 SECTION 4. Section 7 of said chapter 175E, as so appearing, is hereby further
92 amended by striking out the first 3 paragraphs and inserting in place thereof the
93 following 3 paragraphs:-

94 Every insurer or rating organization authorized to file on behalf of such
95 insurer shall file with the commissioner, or his designated representative, and the
96 attorney general, or his designated representative, every manual of its
97 classifications, rules and rates, rating plans and modifications of any of the
98 foregoing not less than 45 days before the effective date thereof. Every such filing
99 shall state the effective date thereof, and such filing shall indicate the character
100 and extent of the coverage contemplated. The commissioner or the attorney
101 general may require such insurer or rating organization to furnish the information
102 upon which it supports such filing.

103 The commissioner may specify the form to be used for any filing or
104 submission pursuant to this chapter.

105 The commissioner may in his discretion, and shall on the motion of the
106 attorney general, initiate a hearing on any such filing prior to its effective date
107 after at least 20 days' notice. During any proceeding on such a filing, the attorney
108 general may: conduct discovery of each insurer or rating authorization relative to
109 any such filing; call witnesses; cross examine witnesses; present evidence; and file
110 pleadings, motions and other papers. An insurer or rating organization shall
111 respond to any discovery request filed pursuant to this section within 10 days.

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114 SECTION 5. This act shall take effect immediately upon its enactment. Any
115 actions on the part of any insurance company or group that have taken place
116 since March 31st of 2008 and are not in compliance with the provisions of this act
117 shall be brought into compliance with these provisions.

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